

**BEFORE THE  
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. UL2007-423

BENJAMIN THOMAS JAYNE  
24950 Via Floreecer, #82  
Mission Viejo, CA 92692

Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Occupational Therapy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on the initial date of licensure.

It is so ORDERED March 24, 2009

  
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FOR THE CALIFORNIA BOARD OF OCCUPATIONAL THERAPY  
DEPARTMENT OF CONSUMER AFFAIRS

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of the State of California  
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9 **BEFORE THE**  
10 **CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
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14 Mission Viejo, CA 92692

15 Respondent.

Case No. UL2007-423

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
18 above-entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Heather Martin ("Complainant") is the Executive Officer of the California  
21 Board of Occupational Therapy. She brought this action solely in her official capacity and is  
22 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
23 by Janice K. Lachman, Supervising Deputy Attorney General.

24 2. Respondent Benjamin Thomas Jayne ("Respondent") is representing  
25 himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about September 19, 2008, Respondent filed an application dated  
27 September 16, 2008, with the California Board of Occupational Therapy to obtain an  
28 occupational therapist license.

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1 submit, in writing, a full detailed account of any and all violations of the law to the Board within  
2 five (5) days of occurrence.

3           **3. Compliance with Probation and Quarterly Reporting.** Respondent  
4 shall fully comply with the terms and conditions of probation established by the Board and shall  
5 cooperate with representatives of the Board in its monitoring and investigation of Respondent's  
6 compliance with probation. Respondent, within ten (10) days of completion of the quarter, shall  
7 submit quarterly written reports to the Board on a Quarterly Report of Compliance form obtained  
8 from the Board.

9           **4. Personal Appearances.** Upon reasonable notice by the Board,  
10 Respondent shall report to and make personal appearances at times and locations as the Board  
11 may direct.

12           **5. Notification of Address and Telephone Number Change(s).**  
13 Respondent shall notify the Board, in writing, within five (5) days of a change of residence or  
14 mailing address, of his new address and any change in work and/or home telephone numbers.

15           **6. Tolling for Out-of-State Practice, Residence or In-State Non-Practice.**  
16 In the event Respondent should leave California to reside or to practice outside the State for more  
17 than thirty (30) days, Respondent shall notify the Board or its designee in writing within ten (10)  
18 days of the dates of departure and return. All provisions of probation other than the quarterly  
19 report requirements, examination requirements, and education requirements, shall be held in  
20 abeyance until Respondent resumes practice in California. All provisions of probation shall  
21 recommence on the effective date of resumption of practice in California.

22           **7. Notification to Employer(s).** When currently employed or applying for  
23 employment in any capacity in any health care profession, Respondent shall notify his employer  
24 of the probationary status of his license. This notification to the current employer shall occur no  
25 later than the effective date of the Decision. Respondent shall notify any prospective health care  
26 employer of his probationary status with the Board prior to accepting such employment. This  
27 notification shall be made by providing the employer or prospective employer with a copy of the  
28 Board's Accusation and Stipulated Settlement and Disciplinary Decision and Order.

Respondent shall cause each health care employer to submit quarterly reports to the Board. The reports shall be on a form provided by the Board, shall include a performance evaluation and such other information as may be required by the Board.

Respondent shall notify the Board, in writing, within five (5) days of any change in employment status. Respondent shall notify the Board, in writing, within five (5) days if he is terminated from any occupational therapy or health care related employment with a full explanation of the circumstances surrounding the termination.

8. **Employment Requirements and Limitations.** During probation, Respondent shall work in his licensed capacity in the State of California. This practice shall consist of no less than (6) continuous months and of no less than twenty (20) hours per week.

While on probation, Respondent shall not work for a registry or in any private duty position, except as approved, in writing, by the Board. Respondent shall work only on a regularly assigned, identified, and pre-determined work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

9. **Supervision Requirements.** Respondent shall obtain prior approval from the Board, before commencing any employment, regarding the level of supervision provided to the respondent while employed as an occupational therapist or occupational therapy assistant.

Respondent shall not function as a supervisor during the period of probation except as approved, in writing, by the Board.

10. **Continuing Education Requirements.** Respondent shall complete continuing education course work in the area of laws and ethics. Such continuing education shall be completed by or within the first year of Respondent's probation.

The continuing education course work shall be in addition to the professional development activities required for license renewal. Respondent shall complete the required continuing education course work, as follows: one course in ethics for twelve (12) hours of credit. Within thirty (30) days of the Board's written notification of the assigned course work, Respondent shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in the course of study.

1 Failure to satisfactorily complete the required continuing education as scheduled  
2 shall constitute a violation of probation. Respondent is responsible for all costs of such  
3 continuing education. Upon successful completion of the course, Respondent shall send the  
4 original certificate he receives for successful completion of the course work to the Board within  
5 thirty (30) days of completion of each course. Respondent shall send the original certificate to  
6 the Board by certified mail, return receipt requested.

7 11. **Maintenance of Valid License.** Respondent shall, at all times while on  
8 probation, maintain an active current license with the Board, including any period during which  
9 license is suspended or probation is tolled.

10 12. **Violation of Probation.** If Respondent violates probation in any respect,  
11 the Board, after giving Respondent notice and opportunity to be heard, may revoke probation and  
12 carry out the disciplinary order which was stayed. If an accusation or a petition to revoke  
13 probation is filed against Respondent during probation, the Board shall have continuing  
14 jurisdiction until the matter is final, and the period of probation shall be extended until the matter  
15 is final.

16 13. **Completion of Probation.** Upon successful completion of probation,  
17 Respondent's license will be fully restored.

18 14. **Chemical Dependency Support/Recovery Groups.** Within five (5) days  
19 of the effective date of the Decision, Respondent shall begin attendance at a chemical  
20 dependency support group (e.g., Alcoholics Anonymous, Narcotics Anonymous). Verified  
21 documentation of attendance shall be submitted by Respondent with each quarterly report.  
22 Respondent shall continue attendance in such a group for the duration of probation.

23 15. **Abstain From Controlled Substances.** Respondent shall completely  
24 abstain from the personal use or possession of controlled substances, as defined in the California  
25 Uniform Controlled Substances Act, and dangerous drugs as defined in section 4021 and 4022 of  
26 the Business and Professions Code, except when lawfully prescribed by a licensed practitioner  
27 for a bona fide illness.

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1                   16.     **Abstain From Use of Alcohol.** Respondent shall completely abstain from  
2 the use of alcoholic beverages during the period of probation.

3                   17.     **Submit Biological Fluid Samples.** Respondent shall immediately submit  
4 to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. There  
5 will be no confidentiality in the test results; positive test results will be immediately reported to  
6 the Board and the respondent's current employer.

7                                   **ACCEPTANCE**

8                   I have carefully read the Stipulated Settlement and Disciplinary Order. I  
9 understand the stipulation and the effect it will have on my occupational therapist license and  
10 occupational therapist interim permit. I enter into this Stipulated Settlement and Disciplinary  
11 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order  
12 of the California Board of Occupational Therapy.

13 DATED: 1/26/09

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16 BENJAMIN THOMAS JAYNE  
Respondent

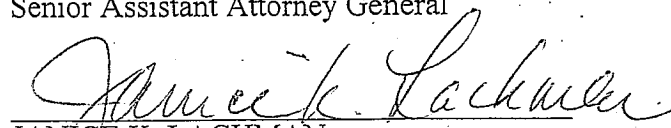
17                                   **ENDORSEMENT**

18                   The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
19 submitted for consideration by the California Board of Occupational Therapy of the Department  
20 of Consumer Affairs.

21 DATED: 1/21/09

22 EDMUND G. BROWN JR., Attorney General  
23 of the State of California

24 ALFREDO TERRAZAS  
Senior Assistant Attorney General

25   
26 JANICE K. LACHMAN  
Supervising Deputy Attorney General

27 Attorneys for Complainant  
28